

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

**JOHN E. FERGUSON,**

**Plaintiff,**

**v.**

**Case No.: 2:18-cv-1024  
JUDGE GEORGE C. SMITH  
Magistrate Judge Jolson**

**COMMISSIONER OF SOCIAL SECURITY,**

**Defendant.**

**ORDER**

This case is before the Court to consider the *Report and Recommendation* issued by the Magistrate Judge on June 7, 2019. The Magistrate Judge recommended that Plaintiff's Statement of Errors be overruled and that judgment be entered in favor of Defendant, the Commissioner of Social Security. (Doc. 12). This matter is now before the Court on Plaintiff's Objections to the Magistrate Judge's *Report and Recommendation*. (Doc. 13). The Court will consider the matter *de novo*. See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3).

Plaintiff raises two main objections to the Magistrate Judge's Report and Recommendation: (1) that the ALJ's residual functional capacity is not supported by substantial evidence; and (2) the ALJ failed to properly evaluate the opinions of the consultative examiner, Dr. Miller. Plaintiff has not presented any new evidence or argument other than what was previously presented in his Statement of Errors. Plaintiff merely disagrees with the Magistrate Judge's conclusions.

Plaintiff disagrees with the Magistrate Judge's findings that the differences between the mental residual functional capacity and the state agency psychologists were not material differences. Plaintiff asserts that there was no discussion or explanation as to why the state agency opinions were omitted. The Magistrate Judge carefully considered this argument and in relying on *Martin v. Commissioner of Social Security*, 658 F. App'x 255 (6th Cir. 2016), found that the state agency psychologists are non-treating sources and the ALJ evaluated their opinions accordingly.

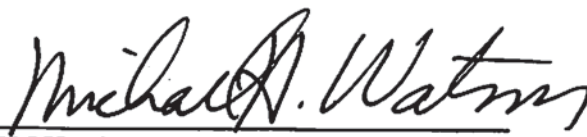
Plaintiff next argues that the ALJ failed to properly evaluate the opinions of Dr. Miller and essentially "swept Dr. Miller's opinions under the rug." (Doc. 13 at 5). The Magistrate Judge also carefully considered this argument and found that "the ALJ, in his discretion, appropriately assigned only "some weight" to Dr. Miller's opinion." (Doc. 12 at 11). The Court agrees with the Magistrate Judge and ALJ's findings regarding Dr. Miller's opinions.

Therefore, for the reasons stated in the well-reasoned *Report and Recommendation*, this Court finds that Plaintiff's objections are without merit.

Based on the aforementioned and the detailed *Report and Recommendation*, the Court finds that Plaintiff's objections have been thoroughly considered and are hereby **OVERRULED**. Accordingly, the *Report and Recommendation*, Document 12, is **ADOPTED** and **AFFIRMED**.

The Clerk shall remove Documents 12 and 13 from the Court's pending motions list.

**IT IS SO ORDERED.**

  
**MICHAEL H. WATSON, JUDGE**  
**UNITED STATES DISTRICT COURT**  
**ON BEHALF OF**  
**GEORGE C. SMITH, JUDGE**